

## § 30.724

## 20 CFR Ch. I (4–1–02 Edition)

shall consider the Notice and Response, including all pertinent documents accompanying them, and may also consider any evidence which refers to the provider or to any claim with respect to which the provider has provided medical services, hospital services, or medical services and supplies, and such other evidence as the administrative law judge may determine to be necessary or useful in evaluating the matter.

(c) All hearings shall be recorded and the original of the complete transcript shall become a permanent part of the official record of the proceedings.

(d) In conjunction with the hearing, the administrative law judge may:

- (1) Administer oaths; and
- (2) Examine witnesses.

(e) At the conclusion of the hearing, the administrative law judge shall issue a written decision and cause it to be served on all parties to the proceeding, their representatives and OWCP.

### **§ 30.724 How can a party request review by OWCP of the administrative law judge's recommended decision?**

(a) Any party adversely affected or aggrieved by the decision of the administrative law judge may file a petition for discretionary review with the Director for Energy Employees Occupational Illness Compensation within 30 days after issuance of such decision. The administrative law judge's decision, however, shall be effective on the date issued and shall not be stayed except upon order of the Director.

(b) Review by the Director for Energy Employees Occupational Illness Compensation shall not be a matter of right but of the sound discretion of the Director.

(c) Petitions for discretionary review shall be filed only upon one or more of the following grounds:

- (1) A finding or conclusion of material fact is not supported by substantial evidence;
- (2) A necessary legal conclusion is erroneous;
- (3) The decision is contrary to law or to the duly promulgated rules or decisions of OWCP;
- (4) A substantial question of law, policy, or discretion is involved; or

(5) A prejudicial error of procedure was committed.

(d) Each issue shall be separately numbered and plainly and concisely stated, and shall be supported by detailed citations to the record when assignments of error are based on the record, and by statutes, regulations or principal authorities relied upon. Except for good cause shown, no assignment of error by any party shall rely on any question of fact or law upon which the administrative law judge had not been afforded an opportunity to pass.

(e) A statement in opposition to the petition for discretionary review may be filed, but such filing shall in no way delay action on the petition.

(f) If a petition is granted, review shall be limited to the questions raised by the petition.

(g) A petition not granted within 20 days after receipt of the petition is deemed denied.

### **§ 30.725 What are the effects of non-automatic exclusion?**

(a) OWCP shall give notice of the exclusion of a physician, hospital or provider of medical services or supplies to:

- (1) All OWCP district offices;
- (2) The HCFA; and

(3) All employees who are known to have had treatment, services or supplies from the excluded provider within the six-month period immediately preceding the order of exclusion.

(b) Notwithstanding any exclusion of a physician, hospital, or provider of medical services or supplies under this subpart, OWCP shall not refuse an employee reimbursement for any otherwise reimbursable medical treatment, service or supply if:

- (1) Such treatment, service or supply was rendered in an emergency by an excluded physician; or
- (2) The employee could not reasonably have been expected to know of such exclusion.

(c) An employee who is notified that his or her attending physician has been excluded shall have a new right to select a qualified physician.